IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

THURSDAY, THE 31ST MAY 2007 / 10TH JYAISHTA 1929

MFA.No. 174 of 2001

OPMV.904/1995 of MOTOR ACCIDENT CLAIMS TRIBUNAL, OTTAPALAM
.....

APPELLANT/PETITIONER:

P.GOVINDA KUMAR, S/O M.MADHAVAN NAIR,
POTTAVETTIL HOUSE, KOTTAPPURAM,
SREEKRISHNAPURAM, OTTAPAL TALUK.

BY ADV. SRI.P.G.PARAMESWARA PANICKER

RESPONDENTS/RESPONDENTS:

1. HYDRU.P., S/O ALAVI, PALAKKIL HOUSE, KAILIAD, OTTAPALAM TALUK (DRIVER OF LORRY KLL 3501).

2. A.ABDUL LATHEEF, S/O P.N.A.KABEER, 27/95, XI/185, ANEES MANZIL, PARAKKUNNAM, PALAKKAD (RC OWNER OF LORRY KLL 3501).

3. NEW INDIA INSURANCE CO. LTD., T.B.ROAD, PALAKKAD (POLICY NO.3176110155321/006438 CERTIFICATE NO.701/37031 (INSURER)).

THIS MISC. FIRST APPEAL HAVINGCOME UP FOR ADMISSION ON 31/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.Koshy & K.P.Balachandran, JJ.

M.F.A.No. 174 OF 2001

JUDGMENT

Koshy, J.

The appellant/petitioner, while travelling in a jeep, met with an accident, by which, he suffered injuries to the Abdomen. Exhibit A7 series medical certificates show that there is 50% disability. The accident occurred in 1995. The Tribunal found that the incident occurred either due to pure accident or due to the negligence of the appellant/ claimant. In paragraphs 13 to 15 the Tribunal clearly found, after verifying the scene mahazar and AMVI's report, that the accident occurred at the wrong side of the jeep. It is seen from Exhibit A3 that the front right phenumatic tube of front right wheel of the jeep was burst. The scene mahazar and AMVI's report are produced by the appellant/claimant in this case. It is also stated that before travelling the mechanical defects ought

to have been checked by the petitioner. In any event, the driver of the alleged offending vehicle or the Insurance company cannot be held liable. The Tribunal awarded an amount of Rs.25,000/- with interest under Section 140 of the Motor Vehicles Act. We see no ground to interfere in the award in the appeal proceedings.

The appeal is dismissed.

(J.B.Koshy, Judge)

31st May, 2007

(K.P.Balachandran, Judge)

tkv

J.B.Koshy & K.P.Balachandran, JJ.

M.F.A.No.174 of 2001

JUDGMENT

31st May, 2007